



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

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OFFICE OF THE  
REGIONAL  
ADMINISTRATOR

DEC 07 2016

Mr. Richard Whitman  
Interim Director  
Oregon Department of Environmental Quality  
700 NE Multnomah Street, Suite 600  
Portland, Oregon 97232

Dear Mr. Whitman:

The U.S. Environmental Protection Agency, with concurrence from the State of Oregon, listed the Portland Harbor Superfund Site on the National Priorities List in December 2000. Since that time, the Site has undergone extensive study and evaluation to determine the nature and extent of contamination present at the Site, as well as the degree of risk such contamination poses to human health and the environment. On June 8, 2016, the EPA issued its Proposed Plan to clean up the in-river portion of the Site pursuant to authority under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq and Section 300.430 of the National Oil and Hazardous Substances Pollution Contingency Plan. The EPA accepted public comments on the Proposed Plan until September 6, 2016, and plans to issue its Record of Decision within the next few weeks.

Throughout the evaluation process, the EPA has coordinated closely with interested federal, state and tribal partners. The Willamette River, specifically Portland Harbor, has served as the City of Portland's major industrial corridor since the mid-1800s and has been vital to the growth and economic health of the city, the region and the state as a whole. The EPA recognizes the State's interest in restoring land use in Portland Harbor to its full potential and minimizing the cost of land remaining undeveloped due to contamination concerns. Additionally, the Willamette River and surrounding watershed have historically provided abundant natural resources in the river and on land. Tribes have been using these resources for thousands of years and despite fish advisories, the lower Willamette River is an important subsistence fishery for tribes and many minority communities in the region.

Federal, state and tribal partners, through a Memorandum of Understanding signed in 2001, recognized the goal of optimizing federal, state and tribal expertise and available resources in the cleanup process. Pursuant to the MOU, the EPA and the ODEQ have divided lead agency responsibility for addressing contamination within the Site. The EPA has lead responsibility for the contamination within the Willamette River and ODEQ has lead responsibility for upland source control.

In order to facilitate remedy implementation, the EPA may manage the in-river cleanup by dividing the Site into work areas for purposes of design and construction activities based on factors such as prioritization of significant source areas, logistics, and efficiency. Additionally, in order to maximize resources and achieve cleanup as soon as possible, there may be an opportunity for ODEQ to perform certain technical oversight functions, in coordination with the EPA, at specified areas of the in-river portion of the Site. Any oversight functions performed, whether performed by the EPA or ODEQ, will comply with CERCLA, the NCP, the ROD, any CERCLA agreements

reached between the agencies and work parties, and EPA policy and guidance regarding CERCLA cleanup actions.

Where the EPA and ODEQ perform coordinated technical oversight functions, the agencies agree that the following framework will apply:

1. The EPA, in coordination with ODEQ, will identify areas where coordinated technical oversight may be appropriate.
2. In order to ensure the EPA and ODEQ managers provide consistent project management of the in-water work, the two teams will need to closely coordinate. Therefore, it is anticipated that the EPA and ODEQ project managers will meet at least weekly to discuss implementation status and deliverables. ODEQ will ensure that the EPA be provided a reasonable period of time to review and comment on deliverables and relevant project decisions and to allow time for ODEQ's incorporation of the EPA comments into those deliverables. If any dispute arises between the agencies, the ultimate decision-making authority must reside with the EPA. Additionally, ultimate approval authority of deliverables and other decisions will reside with the EPA.
3. The EPA acknowledges the significant progress ODEQ has made in removing or otherwise controlling upland and upstream sources, including implementation of removals and control measures at many upland sites, abatement of combined sewer overflows, comprehensive stormwater evaluation and treatment and in-stream sediment removal/capping in the Downtown Reach. In order to ensure that cleanup in the river can proceed as quickly as possible, source control will remain a priority for ODEQ.
4. The EPA, as the lead agency for the in-river portion of the Site, will continue to coordinate technical coordinating team involvement in accordance with the MOU, or as otherwise agreed by the MOU partners.
5. The ODEQ and EPA will work together to develop a comprehensive strategy for identifying and addressing additional sources of contamination to the Site that complement the work of the Portland Harbor ROD. This approach is intended to achieve broader environmental improvements and is expected to include compiling existing watershed contamination data, identifying data gaps, and evaluating the efficacy of existing efforts to build on and identify new strategies, where needed, through consultation with the community, the Tribes, local government, and other interested parties.
6. In the event the EPA determines a CERCLA enforcement action is appropriate to achieve compliance with a remedial action, ODEQ should assist the EPA in that effort by providing access to personnel and documentation, as requested by the EPA.
7. The ODEQ should assist the EPA in discussions with the Tribes in order to foster the EPA's tribal trust obligations at the Site.

8. The role of the EPA and the ODEQ will be more fully described in documents developed post-ROD and, where applicable, will also be subject to approval of the settling party and the U.S. Department of Justice.
9. In no way is providing coordinated technical oversight intended to interfere with the ongoing allocation effort of the Potential Responsible Parties. Rather, the EPA recognizes the importance of the allocation effort moving forward in a timely and successful manner.
10. The EPA and ODEQ will seek funding from settling PRPs for any ODEQ coordinated technical oversight efforts. If ODEQ is unable to obtain sufficient funding from settling PRPs, ODEQ may apply for funding through the normal course pursuant to federal regulations, specifically the National Contingency Plan.

As the remedy will be implemented over many years, there will be opportunities to utilize experience gained to inform implementation of later stages of the remedy. Consequently, the EPA and ODEQ will continue to communicate throughout the remedy implementation process in order to improve upon the joint coordination effort. As the agencies proceed with joint technical coordination, the agencies may choose to utilize an interagency personnel agreement or other similar arrangement in order to maximize shared resources and expertise.

The Portland Harbor and greater Willamette River watershed provide a tremendous resource to the people of Oregon, not only as an economic, industrial, and recreational center, but also as a fishery and cultural resource for tribal and local communities. The EPA looks forward to working with the State of Oregon to achieve remedy implementation in an efficient and timely manner so as to reduce human health and environmental risks and protect this treasured resource for generations to come.

Sincerely,



Dennis J. McLerran  
Regional Administrator